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The Secretary To

Through: s/s

INR - Thomas L. Hughes

IRAN-IRAQ: Dispute Over the Shatt al-Arab Disturbs Relations Subject:

Periodically

Shatt al-Arab Crisis Flares Again. After a ten-year period of quiescence, the long-standing dispute between Iran and Iraq over the Shatt al-Arab once again precipitated a crisis. In its lower portion the river forms the boundary between Iran and Iraq. With a few exceptions, this boundary, as most recently stipulated in the treaty between Iran and Iraq of 1937, lies along the low water mark on the Iranian side. thus is for the most part Iraqi internal waters even where it forms the boundary between the two countries. This state of affairs has long been galling to the Iranians. In addition, the Basra Port Authority has continued to provide pilots for vessels travelling in the river and to collect all dues, although the 1937 treaty foresaw the conclusion within one year of a convention dealing with the maintenance of the navigable channel, pilotage, dues and similar matters. Iran has tried on various occasions to renegotiate this treaty, but has never been successful. Also, Tehran has during past crises used the argument that the treaty was no longer applicable, mainly because of non-implementation by Iraq and because it constituted a remnant of "British colonialism".

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When the crisis passed, conditions generally returned to the status before the crisis and the question of continued applicability of the treaty was no longer raised. In the present instance Iran has again put the validity of the treaty into question.

Present Crisis Sparked By Iraqi Demands. The present flareup in the Shatt probably had its immediate cause, following a period of heightening tensions, in Iraqi insistence that it had a right to inspect ships of Iranian and foreign registry in the Shatt al-Arab. Iran reacted strongly, alleged Iraqi military moves (so far unconfirmed), and concentrated land and naval forces in the area. Iran also has mounted a test case by providing a military escort for an Iranian vessel flying the Iranian flag and sailing down the Shatt to the Persian Gulf. This ship was not challenged by the Iraqis but it remains to be seen whether this particular voyage will establish the precedent which the Iranians are seeking. The vessel was less than the 1,000 tons which the Iraqis may regard as maximum for ships to pass unchallenged.

Iran Declares the 1937 Treaty Void. In a speech before the Iranian Senate on April 19, Deputy Foreign Minister Amir Khosrow Afshar stated that Iraq had "itself repudiated the main provisions of the 1937 agreement" and that the Iranian government therefore regarded the treaty as "null and void". Afshar added several other reasons why the treaty should be considered abrogated. Among these were that circumstances had changed since 1937 and that it had been concluded at a time when "British colonialism was at its height...forcing Iran under pressure to sign the agreement..." Finally Afshar made the point that the Shatt al-Arab as a great navigable river should not be under the control of one party and

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that both Iran and Iraq should have equal rights regarding the river.

Afshar's statement appears to cumulate various earlier arguments against the continued validity of the 1937 treaty.

Likely Iranian Motivation in the Latest Crisis. The latest crisis over the Shatt al-Arab has been characterized so far by relative Iraqi moderation and Iranian belligerence. It is unlikely that Iran actually wants to provoke a military showdown. More likely, the Iranians are taking this occasion to draw attention once more to the unsatisfactory situation in the Shatt and force a renegotiation of the 1937 treaty. This may also be the aim of Afshar's declaration that the treaty is null and void. In any renegotiation the main Iranian goal would be to have the boundary with Iraq shifted to the thalweg in the river. The problems of pilotage and of a division of dues, while important, are probably regarded by the Iranians as less vital. It is at least doubtful whether the present weak government of Iraq could undertake so important a negotiating venture even if it were willing to do so. A formal abrogation of the 1937 treaty without replacement by another instrument would raise serious questions about the boundary as well as navigation in the Shatt.

Situation May Return to Its Previous Status. If tempers cool, the situation may revert to the status before the latest crisis, that is the Basra Port Authority will control pilotage and collect dues as heretofore and the question of the validity of the 1937 treaty will once again become dormant. Unless the two countries achieve a solution of this long-standing and involved dispute at some time, however, crises will recur, and by miscalculation or design some such crisis might reach dangerous proportions.